

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

=====X  
IN RE:

JOSEPH A JEDRLINIC  
A/K/A JOSEPH A JEDRILINIC

tmd3574/mrm  
December 11, 2014  
9:30 a.m.

Case No. 814-74269-LAS

Hon. LOUIS A. SCARCELLA

**NOTICE OF MOTION**

Debtor.

=====X

PLEASE TAKE NOTICE, that upon the within application, Marianne DeRosa, Chapter 13 Trustee will move this court before the Hon. Louis A. Scarcella, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, at 290 Federal Plaza, Room 760, Central Islip, New York, 11722, on the 11<sup>th</sup> day of December, 2014 at 9:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c)(6) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Syosset, New York  
November 24, 2014

/s/ Marianne DeRosa  
MARIANNE DeROSA, TRUSTEE  
115 EILEEN WAY; SUITE 105  
SYOSSET, NY 11791  
(516) 622-1340

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

JOSEPH A JEDRLINIC  
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**APPLICATION**

Debtor.

=====X

TO THE HONORABLE LOUIS A. SCARCELLA, U.S. BANKRUPTCY JUDGE:

MARIANNE DEROSA, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on September 17, 2014, and, thereafter, MARIANNE DEROSA was duly appointed and qualified as Trustee.

2. The Debtor's proposed Chapter 13 Plan (hereinafter referred to as "the Plan") is dated August 13, 2014 and reflected on the Court's docket as number 2. The Plan provides for payments in the amount of \$150.00 per month for a period of 60 months.

3. The Trustee objects to the confirmation of the Plan because it not adequately funded to provide for full repayment to all priority proofs of claim as required by 11 U.S.C. § 1322(a)(2).

4. Additionally, Schedule I of the Debtor's petition indicates that the Debtor is not employed. The only source of income listed in Schedule I is \$1,050.00 per month by way of family support that the debtor receives. To date, the Debtor has failed to furnish the Trustee with proof of any income. As such, the Debtor does not qualify for relief under Chapter 13 because he is not an individual with regular income as required by 11 U.S.C. Section 109(e).

5. Furthermore, the Debtor has failed to:

a. comply with 11 U.S.C § 1325(a)(6) in that the Debtor has failed to submit timely Chapter 13 Plan payments to the Trustee; and

b. provide the Trustee with a copy of a federal income tax return or transcript for the most recent year, 7 days before first meeting of creditors pursuant to 11 U.S.C. §521(e)(2)(A)(i); and

c. provide the Trustee with all disclosure documentation as required by E.D.N.Y LBR 2003-1.

6. The Debtor's failure to provide these items impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

7. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: Syosset, New York  
November 24, 2014

s/Marianne DeRosa  
Marianne DeRosa  
Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Case No: 814-74269-LAS

IN RE:

JOSEPH A JEDRLINIC  
A/K/A JOSEPH A JEDRILINIC

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

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This is to certify that I, Matthew R. Matz, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

JOSEPH A JEDRLINIC  
51 WILSON DR.  
BABYLON, NY 11702

WILLIAM WALDNER  
469 SEVENTH AVENUE  
7TH FLOOR  
NEW YORK, NY 10018

This November 24, 2014

/s/Matthew R. Matz  
Matthew R. Matz, Paralegal  
Office of the Standing Chapter 13 Trustee  
Marianne DeRosa, Esq.  
115 Eileen Way; Suite 105  
Syosset, NY 11791  
(516) 622-1340

CASE NO: 814-74269-LAS  
Hon. LOUIS A. SCARCELLA

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

JOSEPH A JEDRLINIC  
A/K/A JOSEPH A JEDRILINIC

Debtor.

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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MARIANNE DeROSA, TRUSTEE  
115 EILEEN WAY; SUITE 105  
SYOSSET, NY 11791  
(516) 622-1340